IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 18216 of 2007(R)

PETITIONER:
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1. ASWATHY HOUSING PRIVATE LIMITED,
REPRESENTED BY ITS PRESIDENT, ALEXANDER VADAKKEDAM
S/O.M.G.ALEXANDER, AGED 42 YEARS, 1ST FLOOR,
PANICKER BHAVAN, N.H.ROAD, KAZHAKKOOTAM,
TRIVANDRUM DISTRICT.

2. GEORGE THOMAS,
CONVENOR OF RESIDENT'S AD-HOC COMMITTEE,
ASWATHY GARDENS, CHITTATTUMUKKU P.O.,MENAMKULAM,
KAZHAKKOOTTAM, TRIVANDRUM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:
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1. SHRI F.J. TENNISON,
PRESIDENT, KATINAMKULAM GRAMA PANCHAYAT,
P.O. CHITTATTUMUKKU, MENAMKULAM, KAZHAKKOOTTAM,
TRIVANDRUM DISTRICT.

2. SHRI SURENDRAN,
VICE PRESIDENT, KATINAMKULAM GRAMA PANCHAYAT,
P.O. CHITTATTUMUKKU, MENAMKULAM, KAZHAKKOOTTAM,
TRIVANDRUM DISTRICT.

3. SMT.NEENA CLEETUS,
WARD MEMBER, KATINAMKULAM GRAMA PANCHAYAT,
P.O. CHITTATTUMUKKU, MENAMKULAM, KAZHAKKOOTTAM,
TRIVANDRUM DISTRICT.

4. SHRI JOY,
'KALPANA', KALPANA ROAD, MENAMKULAM,
P.O. CHITTATTUMUKKU, KAZHAKKOOTTAM,TRIVANDRUM DIST

5. THE SUB INSPECTOR OF POLICE,
KAZHAKKOOTTAM POLICE STATION, TRIVANDRUM DISTRICT.

6. THE CIRCLE INSPECTOR OF POLICE,
KAZHAKKOOTTAM POLICE STATION, KAZHAKKOOTTAM,
TRIVANDRUM DISTRICT.

7. THE SUPERINTENDENT OF POLICE (RURAL),
KAZHAKKOOTTAM, TRIVANDRUM DISTRICT.

8. THE DIRECTOR GENERAL OF POLICE,
(LAW AND ORDER), TRIVANDRUM.

BY ADV. SRI.A.M.MUKTHAR
BY GOVT. PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C)No.18216/07

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF PROPERTY TAX RECEIPT FOR 2006-07 CONCERING PROPERTY IN R.S.204/2,3,4,5 & 6.

EXT.P2: COPY OF LAND TAX RECEIPT WITH RESPECTE TO SURVEY NO.247/2,3,4 & 5

EXT.P3: COPY OF PROJECT SKETCH WITH RESPECT TO ASWATHY GARDENS.

EXT.P4: COPY OF PROJECT SKETCH WITH RESPECTE TO ASWATHY PARK.

EXT.P5: COPY OF NOTICE DT. 26.5.2007 ISSUED BY FIRST RESPONDENT .

EXT.P6: COPY OF NOTICE DT. 26.5.07 BY FIRST RESPONDENT TO PETR.

EXT.P7: COPY OF F.I.R. DT.9.6.07 IN CRIME NO.216/07 OF KAZHAKKOTTAM POLICE STATION.

EXT.P8: COPY OF COMPLAINT SUBMITTED BY 1ST PETITION BEFORE SUB INSPECTOR OF POLICE, KAZHAKKOOTAM.

EXT.P8(A): COPY OF COMPLAINT BY 2ND PETITIOENR BEFORE S.I. OF POLICE, KAZHAKKOOTAM.

EXT.P9: COPY OF RECEIPT ISSUED BY 5TH RESPONDENT TO 1ST PETITIONER.

EXT.P9(A): COPY OF RECEIPTS ISSUED BY 5TH RESPODNENT TO 1ST PETITIONER.

/ TRUE COPY/

P.S. TO JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(C).No.18216 of 2007 R

Dated this the 19th day of June, 2007.

JUDGMENT

Raman, J.

First petitioner is the President of Aswathy Housing Private Limited, which engages in the construction of Villas and complexes at various places. Second petitioner is stated to be the Convenor of Resident's Ad-hoc committee. At the instance of first respondent-Panchayat, a notice was issued to the petitioners alleging that the building constructed by them is in a 'purampoku' land. The petitioners denied this allegation and, according to them, the matter is pending with the Panchayat. It is further alleged that respondents 1 to 3, by using muscle power, threatened the Watchman and entered the Villas and even threatened the residents also. This Court, by order dated 13.6.2007, granted interim direction to give protection to the life of the petitioners and notice was issued to other respondents.

2. Respondents 1n to 4 entered appearance and filed a detailed counter-affidavit denying the allegations made in the writ petition. According to them, the complaint received by them is not as alleged in the petition. It is also submitted by learned counsel appearing for respondents 1 to 4 that the builder has encroached upon a 'thodu' and

the Panchayat has issued notice. Whether the petitioners have encroached upon any river or 'thodu' vested in the Panchayat and any private road is constructed thereon, including any building, is a subject matter of adjudication pending before the Tribunal. As such, this Court will not enter a finding in a matter, which is pending before a statutory authority. It is submitted that there are two residential associations in the apartments and some disputes regarding the user of a pathway is also there. If there is any civil dispute regarding the enjoyment of a pathway, it is open to the parties to approach a civil court. However, neither party shall take law into their own hands and create a law and order situation. Therefore, the police shall see that there is no threat to the life of the petitioners or the residents of the apartments/Villas and necessary protection shall be afforded in this regard.

Writ Petition is disposed of as above.

P.R.RAMAN, JUDGE.

K. HEMA, JUDGE.

Krs.